

REMARKS

Claims 1-14 and 39-48 are all the claims presently pending in the application. By this amendment, claims 1, 3, 4, 6, 8, 14, 39, 43, and 44 have been amended. Claims 47 and 48 have been added. Applicants reserve the right to pursue the original claims and other claims in this and other applications.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and not for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. Further, Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

The contents of the present Office Action are addressed in the following discussion.

I. THE PRIOR ART REJECTIONS

A. The Rejections Based on the Brockway and the Spaude References

Claims 1, 3-10, 13, 39, and 43-46 (as understood) stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Brockway et al. (US 2002/0138009) in view of Spaude et al. (US 5,811,897). This rejection is respectfully traversed, because the Office has not met the initial burden of establishing obviousness, and thus, a prima facie case for obviousness has not been established.

First, the Office does not even allege, and both Brockway and Spaude fail to teach or suggest, at least claim 1's features, “switching the transmitting electrodes according to information to be transmitted, to create: a first state, wherein a first transmitting electrode has a higher electric potential and a second transmitting electrode has a lower electric potential; and a second state, wherein the first transmitting electrode has a lower electric potential and the second transmitting electrode has a higher electric potential.”

Second, as the Office concedes, Brockway fails to teach or suggest, at least “supplying a conduction current.” Spaude also fails to remedy Brockway’s deficiencies.

That is, the Office alleges that Spaude teaches an intrabody communication system in which separate pairs of electrodes are used to transmit a signal by a conduction current. (Office Action, page 3, lines 6-8). Contrary to the Office’s allegations, however, Spaude merely teaches

that a pair of electrodes 16, 17 of the second terminal 27 in this example are primarily intended to be touched by different finger tips of the user's hand on which the pair of electrodes 6, 7 of the terminal 21 is worn. Here, Spaude fails to teach or suggest that the pair of electrodes 16, 17, or 6, 7 are used to transmit a signal by a conduction current, and also fails to teach or suggest each and every feature of, "*supplying a conduction current from a first transmitting electrode having higher electric potential to the inside of the human body to flow the current through the surface of the human body back into the inside of the human body and sinking the current to the second transmitting electrode having lower electric potential.*" The Office also has not alleged that the difference between Spaude's teachings or the claimed features above would have been obvious to one of ordinary skill in the art, at the time the invention was made.

Claim 39 recite similar features as those recited by claim 1 above.

Also, claim 3 recites, inter-alia, "a coding circuit located in the sensor; a switching circuit that switches, based on an output from the coding circuit, the transmitting electrodes, to create: a first state, wherein a first transmitting electrode has a higher electric potential and a second transmitting electrode has a lower electric potential; and a second state, wherein the first transmitting electrode has a lower electric potential and the second transmitting electrode has a higher electric potential."

In contrast, the Office has not alleged, and both Brockway and Spaude fail to teach or suggest "a coding circuit located in the sensor." Also, for reasons explained previously, the references also fail to teach or suggest a "switching circuit that switches, based on an output from the coding circuit, the transmitting electrodes, to create: a first state, wherein a first transmitting electrode has a higher electric potential and a second transmitting electrode has a lower electric potential; and a second state, wherein the first transmitting electrode has a lower electric potential and the second transmitting electrode has a higher electric potential." Contrary to the Office's allegations on page 3, paragraph 8 of the Office Action, Brockway fails to even teach or suggest the claimed, "switch circuit". Instead, paragraph 55 of Brockway merely teaches a external remote receiver 140, without teaching or suggesting that the external remote receiver 140 "switches, based on an output from the coding circuit, the transmitting electrodes, to create: a first state, wherein a first transmitting electrode has a higher electric potential and a second transmitting electrode has a lower electric potential; and a second state,

wherein the first transmitting electrode has a lower electric potential and the second transmitting electrode has a higher electric potential.”

Therefore, the Office failed to meet its initial burden to prove that claims 1, 3, and 39 are obvious in view of Brockway and Spaude.

Since the Office alleged without evidentiary support that Brockway and Spaude teach or suggest each and every feature of the independent claims 1, 3, and 39, the Office has also failed to meet its burden to prove that the cited references teach or suggest all of the features of the claims depending from these independent claims, for at least the reasons above, and on their own merits.

Since the Office has not met the initial burden of establishing obviousness, a prima facie case for obviousness has not been established.

Therefore, Applicant respectfully requests the Office to reconsider and withdraw this rejection.

B. The Rejections Based on the Brockway, the Spaude, and the Bashiri References.

Claims 11-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Brockway et al. and Spaude et al. in view of Bashiri et al. (US 6,165,178). This rejection is respectfully traversed. Claims 11-12 depend from independent claim 3 and are patentable at least for the reasons mentioned above, and on their own merits. Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of claims 11-12 be withdrawn and the claims allowed.

C. The Rejections Based on the Brockway, the Spaude, and the Yoshiyoka References.

Claim 14 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Brockway et al. and Spaude et al. in view of Yoshioka et al. (US 5,651,869). This rejection is respectfully traversed. Claim 14 depends from independent claim 3 and is patentable at least for the reasons mentioned above, and on its own merits. Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of claim 14 be withdrawn and the claim allowed.

D. The Rejections Based on the Brockway, the Spaude, and the Holmes References.

Claims 41-42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Brockway et al. and Spaude et al. in view of Holmes et al. (US 4,267,415). This rejection is

respectfully traversed. Claims 41-42 depend from independent claim 39 and are patentable at least for the reasons mentioned above, and on their own merits. Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of claims 41-42 be withdrawn and the claims allowed.

II. NEW CLAIMS

Claims 47 and 48 have been added to further define the claimed invention. Support for the claims may be found on at least page 10, lines 15-20 of the Specification. Applicants respectfully assert these claims are patentable at least for the reasons discussed above, and on their own merits.

III. FORMAL MATTERS AND CONCLUSION

In view of the foregoing, Applicant submits that claims 1-14 and 39-48, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Office is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Office find the application to be other than in condition for allowance, the Office is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

Respectfully submitted,



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